

COLLOCATION AND INTERCONNECTION ISSUES

COLLOCATION

1. Collocation Dust Contamination/Dangers to Equipment

Qwest's current procedures addressing when Qwest and/or its vendors ("Qwest") perform construction activities in buildings that house CLEC collocations are inadequate and in need of revision. They are also unfavorable when compared with how Qwest performs similar activities for itself. Qwest has exposed Eschelon's collocation equipment in Minnesota to serious adverse conditions while Qwest conducts construction activities in the building housing the collocation. Qwest caused dirt, dust, and metal shavings to go onto Eschelon's collocation equipment in the Orchard Central Office in Minneapolis in January and February of 2002. (*See* photos labeled "dust".) Qwest also allowed excessive temperature levels in the collocation area that could damage Eschelon's equipment. Qwest removed all essential cooling to the area and replaced it with a fan, an inadequate solution. Qwest would not find that a fan would be adequate to cool its own equipment. The problem also required one of Eschelon's technicians to be available for the time period while a vendor was completing the clean up. This tied up a technician who should have been doing other work. This incident caused down time for our customers and forced Eschelon to incur unnecessary time and expense to Eschelon and could have caused major damage to our equipment. Eschelon escalated the issue within Qwest. In response to the escalation, Qwest provided Eschelon with a written response that said: "Throughout the life of this construction project, Qwest has insured that all methods of procedures (MOP's) were followed and that dust protection was appropriate and in place." The enclosed photographs show the significant amount of dust in the collocation using what Qwest described as "appropriate" dust protection. Obviously, if following the current procedures at Qwest produces this result, the current procedures are inadequate. Eschelon further escalated the issue within Qwest, and Qwest (Pamela Stegora-Axberg) assured Eschelon that this would not happen again.

The problem re-occurred, however, shortly after the first incident and assurances that the dust problem would not happen again, in the same collocation. (*See* photos labeled "new dust".) Despite assurances to the contrary, dust was still entering the collocation area. Proper steps had not been taken to prevent a re-occurrence. Although Qwest has agreed to after-the-fact clean ups, a later clean up, is not a satisfactory remedy. The breaches to security and integrity to the collocation cannot be undone. Eschelon also had to incur unnecessary time and expenses, in addition to its customers experiencing unjustified downtime.

The problems in the Orchard Central Office in Minnesota came after earlier commitments from Qwest that Qwest would prevent this type of situation from happening again. In March of 2001, an earlier instance of collocation contamination occurred in the Denver Main Central Office. The conditions discovered at the site indicated a deliberate breach in security and potential damage to our equipment. Qwest had not notified Eschelon of its construction or the potential impact on Eschelon's collocation space. Eschelon's cage was accessed without Eschelon authorization or knowledge. A Qwest approved contractor removed the pins securing Eschelon's collocation cage to gain access and Qwest security failed to notify Eschelon of the intrusion. During the intrusion, the Qwest contractor installed water pipes directly above

Eschelon's electronics equipment which put the equipment at risk. Eschelon pays security charges on a monthly basis and expects Qwest to provide and maintain a secure environment. Eschelon told Qwest that this matter is of utmost importance as the integrity of Eschelon's collocation equipment was jeopardized. Qwest would not expose its own equipment to such conditions or allow CLECs to treat Qwest's space and equipment in this same manner. One can only imagine how Qwest would react if a CLEC removed the pins to a Qwest door to get around a lock securing access to the Qwest area of a building. Even after the Denver situation was resolved, and assurances were received that the problem would not occur again, the serious problems described above have occurred again, twice, in the Orchard Central Office in Minneapolis.

In June 2002 during a Qwest construction project at Scottsdale Thunderbird in Arizona, a Qwest contractor allowed dust to collect on Eschelon's electronic equipment. Although not as extensive as the previous problems, this shows Qwest has not corrected its procedures.

2. Providing Timely APOT Information

Qwest provides preliminary, but not final, Alternative Point of Termination (APOT) information 15 days before the Ready for Service (RFS) date. Qwest does not provide a CLEC with *final* APOTs until on or after the collocation RFS date. On that date, CLEC is required to pay all remaining nonrecurring charges and begin paying recurring charges for the collocation space. Yet, the collocation space is not functional because the associated UNEs, transport services and CLEC-to-CLEC routing cannot be ordered with any certainty until after the final APOT information is made available to CLEC. While Qwest will allow CLECs to place orders based upon preliminary APOT information provided before the RFS date, this does not guarantee that CLEC can use its space on the RFS date. If Qwest determines that the final APOT is different from the preliminary APOT, CLEC is required to submit a supplement to its service order, thereby delaying delivery of UNEs, transport and CLEC-to-CLEC routing. Eschelon has asked Qwest to develop a process to provide CLECs with final APOT information at least 15 days before RFS so that CLECs can place orders in a time frame that enables them to actually use their collocation space on the RFS date (CR PC120301-2; attached.) Correcting APOT issues takes time and coordination, which, if handled in the early stages of the order, can be resolved without affecting the established RFS date generated by Qwest and expected by Eschelon/Eschelon customers. Qwest declined the request.

A new provision should be added to the SGAT at 8.4.1.2.1 to read:

Upon receipt of CLEC's Collocation Acceptance by Qwest and CLEC's initial fifty percent (50%) payment, CLEC may begin submitting service order requests for Qwest UNEs, transport services and CLEC to CLEC routing utilizing assigned CLLI codes and APOTs as necessary. Qwest will provide the final APOTs at least fifteen (15) days before the RFS date. If Qwest provides incorrect APOT information, upon discovery Qwest shall immediately correct the erroneous information. Qwest's processing of CLEC's service orders shall not be delayed from the provisioning interval that would apply had there been no APOT error.

3. Collocation Quote Preparation Fee

Qwest charges this fee when a CLEC makes an initial request for caged collocation space in Qwest premises. In almost all circumstances, Qwest also charges this fee if a CLEC makes a major material change (as Qwest defines that term) to its initial collocation request. For instance, if a CLEC requests a decrease in DC power (which, contrary to Qwest's definition, is not a major change), Qwest will charge CLEC a \$1,381.54 fee to process the order. Qwest also charges the full fee to augment a completed collocation. If a CLEC orders a DS-3 circuit as an augment to its caged collocation space, Qwest charges the entire \$1,381.54 fee. Augments to existing collocations and changes to initial collocation orders do not involve the same level of planning and engineering that the initial development of the collocation site requires. Qwest should not be permitted to charge the steep fee of \$1,381.54 for augments and changes to collocations, as the work involved is a fraction of the work involved in developing the initial collocation site.

Qwest's SGAT should be amended to state that Qwest will only charge a cost based fee for augments and changes to collocation orders.

4. Reduction in Power

Qwest has used an alleged need for amendments to the interconnection agreements as a tool to delay competitors or attempt to extract an ability to charge unapproved rates from them. In a recent example, Qwest has taken the position that Eschelon needs to sign a contract amendment to simply terminate unwanted power to collocation space. Eschelon has identified nine collocations, for which Eschelon has asked Qwest to terminate power. Eschelon has pointed out to Qwest that Qwest merely needs to remove the charge from its database. No physical work is required, because Eschelon is not using the power. Qwest has caused delay – during which time Eschelon incurs this unnecessary expense – by trying to require an amendment to the interconnection agreement. No amendment is needed, however, in this situation. Eschelon is not asking Qwest to retroactively refund money paid for unused power; Eschelon is simply indicating that Eschelon is not ordering the power going forward. As this is a simple database change, it should not require either a contract amendment or a charge. *See* attached documents.

5. Material Changes to a Collocation Order

Qwest's SGAT at Section 8.4.1.2 defines "material changes" to a collocation order as those changes that would impair Qwest's ability to meet applicable intervals and would require Qwest to incur financial penalties. This subjective definition gives Qwest unlimited authority to decide what constitutes a material change.

Qwest has stated that it would agree to define material change as those items listed on its web site under "Major/Minor Material Changes". That list, however, is over-inclusive. For instance, it lists a decrease in DC power as a major change to a collocation order when in fact it simply requires a fuse change.

The definition of “material change” should be objective so that it is clear to all parties when the definition has been met and it should be reasonable so that small changes to a collocation order do not permit Qwest to require CLECs to accept long delays.

6. Timely Assignment of Collocation Space

In Arizona (Scottsdale Thunderbird Central Office), Eschelon observed that collocation space adjacent to Eschelon’s own space was open and had not been in use for some months. Eschelon had previously requested additional collocation space. Because Eschelon was first in time in line with its request for additional space, Qwest offered Eschelon a different space that was farther from Eschelon’s existing collocation. The space offered to Eschelon earlier was not suitable for Eschelon’s use, and Eschelon declined that space. Eschelon indicated at the time, however, that it continued to request collocation space when suitable space became available. Eschelon did not receive any notice from Qwest that the space adjacent to its own space had become available. Eschelon made its own inquiries, confirmed that the space was available, and asked Qwest to provide the space to Eschelon. Qwest responded that the space was tied up in a bankruptcy. Nonetheless, after Eschelon pressed the issue with Qwest, Qwest finally (on April 18, 2002) notified Eschelon that the space would be assigned to Eschelon. There is no indication that Eschelon would have received timely notice of the space’s availability or received the space if Eschelon had not observed the space, acted on its own initiative without notice, and pursued the issue. Qwest should have a process in place for timely reassignment of reclaimed collocation space in such situations. If Qwest is not more proactive and prompt when space becomes available, Qwest is able to delay competitors by simply doing nothing, as it did here until Eschelon pressed the issue.

Qwest also charged Eschelon SGAT rates for the cageless collocation space in the amount of approximately \$53,000. Eschelon has not opted into the SGAT in Arizona but Qwest insisted on charging Eschelon SGAT rates instead of the applicable rates under our current interconnection agreement. Moreover, the cageless space required little preparation since it had already been in use by another CLEC. Qwest charged Eschelon \$53,000 to essentially run power and provide APOTs to the space.

7. Adjacent Off-Site Collocation

Qwest’s SGAT does not provide for adjacent off-site collocation so that Eschelon can collocate on property next to Qwest and thereby not be required to use an entrance facility to gain access to Qwest’s premises. The SWBT Local Access Service Tariff provides for an offering of adjacent off-site collocation. The FCC Collocation Order states that any collocation offering made by one ILEC should be offered by another ILEC upon request, unless the ILEC can show that the offering is not technically feasible. (47 C.F.R. 51.321(c)). Despite this requirement by the FCC, Qwest refuses to provide Eschelon with adjacent off-site collocation.

Additional language at the end of Section 8.1.1.6 of the SGAT should be added to read:

Adjacent Collocation includes two scenarios: (1) where CLEC wishes to obtain space for collocation facilities in a building or property not owned by Qwest

nearby or across the street from Qwest's premises (the "Nearby Location"); and (2) where CLEC wishes to obtain space for collocated facilities in a cabinet on the parking lot or grounds of Qwest's premises (the "On Grounds Location"). Collocation at a Nearby Location will be available to CLEC only if On Grounds Location is not available because of space limitations.

Qwest will extend facilities sufficient to establish connectivity to Qwest's network and distribution frame facilities to CLEC's collocation space where CLEC is in a Nearby Location. When CLEC selects the "nearby" Adjacent Collocation option, CLEC is responsible for all expenses associated with the establishment of the Adjacent Collocation space, including, but not limited to: space construction, provision of power and the extension of the Qwest facilities to the CLEC Adjacent Collocation space.

8. ICDF Collocation

Qwest's SGAT does not provide for interconnection at the ICDF. Eschelon asked Qwest to agree to allow it to interconnect at the ICDF when Eschelon uses ICDF collocation. Qwest has refused this request. The Act defines collocation as "the duty to provide... for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier..." 47 USC 251(c)(6). ICDF collocation is a form of collocation and so Qwest is required to permit interconnection at the ICDF. Without this ability, Eschelon cannot interconnect LIS trunks at the ICDF.

The first sentence of 8.2.5.1 should be changed to read:

Interconnection Distribution Frame (ICDF) Collocation is available for CLECs who have not obtained Caged or Cageless Physical Collocation but who require access to the Qwest Premises for interconnection, combining unbundled network elements and ancillary services and/or terminating EAS/local traffic.

9. Unforecasted Collocation Intervals

Eschelon objects to Qwest's providing CLECs with a collocation interval in excess of 90 days for unforecasted collocations when facilities are available. If facilities are available there is no reason to delay collocation beyond the 90 days interval. While Qwest has not agreed to shorten the interval in interconnection agreement negotiations, it appears that Qwest has agreed to a 90 day interval in the SGAT. See Section 8.4.3.4.3. Qwest should inform Eschelon if it has changed its position on this issue.

INTERCONNECTION

1. Paying Transit Charges on Qwest's intraLATA Toll Calls

Section 7.2.2.3.1 of Qwest's SGAT defines transit traffic as local and exchange access (defined as Qwest intraLATA toll) but excludes "jointly provided switched access" which is toll provided by a carrier other than Qwest. Transit charges should apply to local traffic only. They should not apply to intraLATA toll, including Qwest's intraLATA toll. Qwest provides no rationale for charging transit rates on Qwest intraLATA toll calls.

The last sentence of Section 7.2.2.3.1 should be deleted and the second to last sentence should read:

For purposes of the Agreement, Transit Traffic does not include traffic carried by intraLATA or interLATA toll carriers, including Qwest.

2. IntraLATA Toll Transit

Section 7.3.7.2 of the SGAT states that regarding intraLATA toll transit: "The applicable Qwest Tariffed Switched Access tandem switching and tandem transmission rates apply to the originating CLEC or LEC. The assumed mileage contained in Exhibit A of this Agreement shall apply."

Eschelon objects to this SGAT provision because it would result in charging Eschelon switched access charges when Eschelon is not the toll carrier. Qwest itself may be the intraLATA toll carrier, yet Qwest seeks to charge local carriers access charges simply because the call transits its network. Qwest should charge the intraLATA toll provider access charges, not the CLEC.

Section 7.3.7.2 should be deleted.

3. Signaling Parameters

In Section 7.3.8 Qwest proposes to charge CLEC switched access charges if CLEC fails to provide Calling Party Number (CPN) for local traffic unless CLEC can substantiate technical restrictions (defined as MF signaling) for not providing CPN. CLEC should not be charged switched access charges for local traffic whether or not the call record contains CPN. Access charges cannot legally be charged for local traffic.

Qwest is attempting to ensure CLECs do not send toll traffic disguised as local traffic by requiring that CPN be provided. However, this provision of the SGAT states that Qwest will charge access charges on calls where CPN is not provided but not on calls where CPN is provided even if the CPN indicates the traffic is toll. In other words, Qwest proposes to charge or not charge access based upon the provision of CPN, not on whether the call is toll or local.

Qwest's provision does not solve its problem and opens CLECs to the possibility of being charged access charges on local calls. The following language more directly solves the problem Qwest is trying to solve in this Section of the SGAT. Section 7.3.8 after the third sentence would read:

Qwest and CLEC agree not to terminate intraLATA or interLATA toll traffic over local trunk groups.

The use of separate trunk groups will ensure proper charges for toll and local calls.

4. Paying for Category 11 Records

In Sections 7.5.4 and 7.6.3 Qwest proposes charging CLECs for Category 11 billing records. Eschelon believes that Qwest should bill at cost based rates and only charge for records that CLEC is able to use to bill customers. Other records are not useful.

Eschelon proposes that the word "billable" be added before the word record in these two sections. The following definition of "Billable Record" should be added to SGAT Section 4:

"Billable Record" means a record that: 1) only contains charges that are less than 90 days old, 2) contains accurate information in each field and 3) is filled out completely and according to OBF standards.

5. Actual v. Assumed Mileage

Section 7.2.7.1 states that Qwest will charge the applicable LIS tandem switching and tandem transmission rates at the assumed mileage rates contained in Exhibit A. This section also says the assumed mileage will be modified to reflect actual mileage when mileage can be measured, based on negotiations of the parties.

Eschelon attempted to negotiate actual mileage rates in our interconnection agreement and Qwest has refused to do so. Eschelon believes that CLECs should have the right to pay only for the miles actually traveled and should not be required to pay for mileage based on Qwest determined assumed rates. For instance, if Qwest uses the average mileage for the entire state, CLECs whose territory does not similarly cover the entire state will be charged an incorrect rate.

Section 7.3.7.1 should be changed to read:

The applicable LIS tandem switching and tandem transmission rates at the actual mileage based on V and H coordinates apply to the originating party unless the originating party chooses to use the assumed mileage contained in Exhibit A of this Agreement.

6. Tandem Failure

See FCC Comments.